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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/679,357 | 10/07/2003 | Riccardo Cesarini | 7040.0054.01 | 3867 |

22852 7590 06/03/2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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WASHINGTON, DC 20001-4413

EXAMINER

MAKI, STEVEN D

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

1733

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|---|--------------------------------------|--|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/679,357 | Applicant(s) CESARINI ET AL. | |
| | Examiner Steven D. Maki | Art Unit 1733 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 16 May 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see advisory action attachment. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): see advisory action attachment.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 39-62.
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____

Advisory Action Attachment

new issues

The new issues include (1) new independent claim 63 which omits "wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion" and adds "structurally stiff grid of elastomeric material portions fitted in with one another"; (2) new independent claim 82 which omits "wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion" and adds "structurally stiff grid of elastomeric material portions fitted in with one another"; (3) new independent claim 87 which omits "wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion" and omits "each substantially continuous tread portion comprises a width wider than an adjacent transversal groove" and adds "the substantially-continuous tread portions are provided about an axis such that during tire rolling, stresses imparted to the substantially-continuous tread portions are discharged along the axis"; (4) adding claim 98 without canceling claim 50; and (5) new independent claim 106 which omits "wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion" and adds "the substantially-continuous tread portions are provided about an axis such that during tire rolling, stresses imparted to the substantially-continuous tread portions are discharged along the axis".

remarks

The terminal disclaimer filed 5-16-05 is proper and has been recorded. Accordingly, the obvious type double patenting rejection set forth in paragraph 6 of the final office action has been withdrawn.

With respect to the prior art rejection, applicant argues that Japan 109's branching grooves (3) begin narrowing and do not have a uniform width in the section labeled W/2 corresponding to the claimed equatorial zone. This argument is not persuasive. First: Section W/2 of Japan 109 includes one shoulder zone and one-half of the equatorial zone. Second: In figure 1, branching grooves (3) do not begin narrowing as described by applicant. Instead, branching grooves (3) have a uniform width as shown in figure 1.

With respect to the prior art rejection, applicant also argues that Japan 109 fails to teach "wherein the equatorial groove portion of each transversal groove has a uniform width" and "wherein the shoulder groove portion of each transversal groove has at least a portion having a width smaller than the width of the equatorial groove portion". Applicant is incorrect. In figure 1, inclined main groove (2) ("portion" (2) of Japan 109's "transversal groove") has a uniform width and branching groove (3) ("portion" (3) of the "transversal groove") has a smaller width than the width of inclined main groove (2) ("portion" (2) of Japan 109's "transversal groove").


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

Art Unit: 1733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
May 31, 2005


STEVEN D. MAKI 5-31-05
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733